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Seidman Research Papers

Workshops, Notes and Papers

# Legal Resources Centre workshop on legislative drafting, May 22-23. 1998

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## Appendix 1:

### Advocacy and Law Reform:

- The LRC helped to design the Communal Property Associations Act of 1996, which creates a new form of group ownership tailored for communities which are the beneficiaries of land claim court awards or are disadvantaged. The legislation provides a simple and accessible mechanism through which eligible members may collectively acquire, hold and manage communal assets in terms of written constitution which builds in democracy, accountability and non-discrimination.
- The LRC helped to design the Protection of Informal Land Rights Act of 1996. The Act protects people from dispossession while major tenure reform is planned.
- At the request of the Ministry and the Department of Land Affairs the LRC assisted in preparing parts of a policy discussion document leading to a White Paper on Land Reform in 1997.
- The LRC has played a major role in drafting the Land Reform (Labour Tenants) Act which aims to protect labour tenants. The Bill allows them to acquire ownership in the land they have historically occupied and protects them against arbitrary eviction.
- The LRC and the Unit in co-operation with various NGOs pursued the Socio-Economic Rights Campaign, with the aim of including Socio-Economic Rights in the New Constitution of 1996.
- We contributed to the submission of the Community Law Centre (University of the Western Cape), Legal Resources Centre and Development Action Group to the Truth and Reconciliation Commission on the relevance of social, economic and cultural rights to the Commission's mandate.
- During 1997 the Unit was invited to the United Nations Commissioner on Human Rights' Experts Seminar on the practice of forced evictions. The resulting guidelines will now be considered for adoption by the Economic and Social Council of the United Nations and the General Assembly so it may become part of international law.
- A comment on the 19th draft of the Extension of Security of Tenure Act of 1997 was submitted to the Parliamentary Portfolio Committee and elaborated on orally.
- The Rural Areas Act Amendment and Repeal Bill is still going through various consultation processes and is close to finalisation.

- The 1997 amendments to the Restitution Act, allow land restitution claimants to bypass the Commission and directly access the Land Claims Court. It is hoped that this will ease the current institutional blockage to land restitution.
- During September and October 1997, the amended Housing Bill was commented upon from a gender perspective by the Women and Housing Focus Group. The comment incorporated the requirements of the United Nations Sub-Commission on the Prevention of Discrimination and the Protection of Minorities first resolution ever on "women and the right to adequate housing and to land and property".
- A submission was made to the Housing Portfolio Committee on the Unlawful Occupation of Land Bill of 1997, the essential provisions of which originally were accommodated in the Extension of Security of Tenure Bill. The "Squatters Bill", as it is being termed, in its current form, does not comply with the requirements of the South African Constitution let alone the international Conventions.
- The LRC submitted a comment on the Planning and Development Bill which is the Western Cape's alternative to the Development Facilitation Act.
- The Development and Planning Commission was established under the Development Facilitation Act of 1995 and it has three main tasks for the next year:
  - \* a green paper on land development policy;
  - \* fleshing out the chapter 1 principles of the Development Facilitation Act;
  - \* an audit and recommendations on provincial land use and development laws.
  - \* The Unit serves on the Commission.